GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

Tribal Welfare Department – Appeal Petition filed by Sri. Minno Kethano Naik, S/o Late Sri Hadiaya Nayak, R/o Bhogabanda Village, Mandasa Mandal, Srikakulam District working as P.C. in CRPF, Imphal, Manipur under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) - Regulation of Issue of Community Certificates Act, 1993 (AP Act No.16/1993) against the proceedings in Rc.No.2185/87, dt: 18.07.1988 of the Revenue Divisional Officer, Tekkali, Srikakulam District – Appeal Petition allowed – Orders - Issued.

SOCIAL WELFARE (TW.CV.2) DEPARTMENT

G.O.Ms.No.75. Dated: 23.12.2020

Read the following:-

1. Proceedings of the RDO, Tekkali, Srikakulam District, RC.No.2185/87, Dt:18.07.1988.
2. Orders of the Hon'ble High Court of Andhra Pradesh in WP No.12857/1988, dt:13.07.1996.
3. Appeal Petition filed by Sri Minno Kethano Naik, Srikakulam District, dated 10.08.1996.
4. Representation filed by Sri Minno Kethano Naik, Srikakulam District, dated 28.08.2020 before the Hon'ble Dy.CM(TW), with Endt. No. 44/Dy.CM (TW)/2019, dated 04.09.2020.
5. Govt. Memo No.1249535/CV.2/2020, dated 19.10.2020.

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ORDER:

In the Proceedings 1st read above, the Revenue Divisional Officer, Tekkali, Srikakulam District has issued orders cancelling ST-Dhulia caste certificates of Sri. Minno Kethano Naik, his father late Sri Hadiaya Nayak, his two brothers and (2) others who are residents of Bhogabanda(V), Mandasa Mandal of Srikakulam District.

2. In the representation 4th read above, Sri. Minno Kethano Naik has informed that aggrieved by the orders of RDO, Tekkali, himself and (4) others have filed W.P.No.12857 of 1988 before the Hon'ble High Court of Andhra Pradesh and in the orders 2nd read above, the Hon'ble High Court of Andhra Pradesh while disposing the said WP, had directed the Petitioners to file the appeal before the Government within two months from the date of issue of court orders and the Government on filing of such appeal, to dispose the same in accordance with the law within a period of two months thereafter. As per the orders of Hon'ble Court, he has preferred appeal to the Government in the Appeal Petition 3rd read above.

3. Sri Minno Kethano Naik has filed his grounds in support of his claim of ST-Dhulia Community Certificate and prayed the Hon'ble Appellate authority to allow his appeal, on the same lines as that of his eldest brother, Shri Kumara Swamy Naik whose appeal petition was allowed and set aside the orders passed by the RDO Tekkali in RC.No 2185/87, dated 18-5-1987 vide G.O.Ms.No.1, Social Welfare (TW.CV.2) Dept., Dt:02.01.2020, as both of them are siblings and come under the same impugned order of the RDO, Tekkali.

4. In the Memo 5th read above, while admitting the case, stay against the proceedings of RDO, Tekkali in Rc.No.2185/87, Dt:18.07.1988, Srikakualm District has been granted and parawise remarks on the grounds filed by the appellant along with connected original records were called for from the District Collector, Srikakulam.

5. The Case has been posted for hearing on 28.11.2020 before the Hon'ble Appellate Authority and the appellant/his counsel have attended the hearing. After hearing, the Appellate authority has observed that;

Sri Minno Kethano Naik son of late Sri Hadiya Naik, resident of Bhogabanda village, Mandasa Mandal, Srikakulam District serving as P.C. in CRPF has filed

[Contd..on P.2]

appeal under Section 7(2) of the Act No.16 of 1993, against the proceedings of the Revenue Divisional Officer, Tekkali in Rc.No.2185 of 1987 dated 18-07-1988 cancelling his caste certificate along with his father and other brothers.

Sri Minno Kethano Naik has further submitted that Government have examined the issue and rightly set aside the impugned orders of the RDO, Tekkali cancelling the caste certificates under the above Rc.No.2185 of 1987 in respect of Sri Kumaraswamy Naik, who is no other than his own elder brother, by coming to an irresistible conclusion that Sri Kumaraswamy Naik son of late Sri Hadiya Naik, Bogabanda village, Mandasa Mandal, Srikakulam District belongs to ST(Dhulia) and that the cancellation of the ST certificate of Sri Kumaraswamy Naik, by the RDO is vitiated by errors apparent on record among other reasons recorded therein vide G.O.Ms.No.1, Social Welfare (TW.CV.2) Department, dated 02-01-2020. Accordingly, in view of the several reasons recorded therein, the Government in exercise of the powers conferred under Section 7(2) of Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of issue of Community Certificates Act, 1993 (Act 16 of 1993) allowed the appeal petition filed by Sri Kumaraswamy Naik, by upholding his Scheduled Tribe (Dhulia) community and set aside the proceedings of the Revenue Divisional Officer, Tekkali, Srikakulam District dated 18-07-1988.

The above case filed by Sri Minno Kethano Naik has been admitted and the matter has come up for hearing on 28-11-2020. Sri K. Ramalingeawara Rao, Advocate, filed Vakalat on behalf of the appellant and argued the matter. While reiterating the above factual position as well as the grounds on which the appeal filed by Sri Kumaraswamy Naik has been allowed in G.O.Ms.No.1, S.W.(TW) Dept., dated 02-01-2020, has urged that Sri Minno Kethano Naik and Sri Kutharaswamy Naik are siblings and that they are the progeny of late Sri Hadiya Naik and Smt. Surekha Naik, that the father of the appellant along with his brothers filed W.P.No.12857 of 1998 questioning the impugned orders of the RDO cancelling their caste certificates under one order and based on the directions of the Honorable High Court, they all have filed Appeal Petitions before the Government and that at last the appeal of Sri Kumaraswamy Naik has been disposed of by the Government by setting aside the impugned orders in respect of the said Sri Kumaraswamy Naik and that the appellant herein being his sibling and since the order of cancellation of caste certificate is in one and the same, the appellant is also entitled to the same relief. He also brought out that in the interregnum the competent authorities have issued ST Caste Certificates to the appellant during 2002, 2003, 2013 and 2014 after due verification of his ST caste (Dhulia) in accordance with the present rules, that allowing of appeal filed by his eldest brother questioning the cancellation of the caste certificates issued prior to the formulation of the rules fortifies the claim of the appellant that he belongs to ST caste (Dhulia), since the impugned order under which the caste certificates cancelled by the RDO, Tekkaii is one and the same and arose out of the same set of facts they being siblings, that there are catena of cases where any benefit passed on to any person shall be passed on to all the others similarly placed in the interest of justice and in the instant case the appellant has also simultaneously filed appeal questioning the impugned orders, and as such he is entitled to the same relief as that of his eldest brother, Sri Kumaraswamy Naik granted in G.O.Ms.No.1, S.W.(TW.CV.2) Department dated 02-01-2020 and finally prayed to set aside the impugned orders passed by the RDO, Tekkali against the appellant also duly holding that he is belonging to ST(Dhulia) in exercise of the powers conferred under Section 7(2) of Act 16 of 1993.

6. After careful consideration of the material on record and the reasons urged by the learned advocate appearing on behalf of the appellant, Sri Minno Kethano Naik, Government have come to an irresistible conclusion that the appellant herein Sri Minno Kethano Naik also belongs to ST(Dhulia) and that the cancellation of his ST certificate of by the RDO is vitiated by errors apparent on the face of the record.

[Contd..on P.3]

7. In view of the reasons recorded supra clubbed with the reasons recorded in G.O.Ms.No.1, S.W.(TW.CV.2) Department, dated 02-01-2020 upholding the claim of Sri Kumaraswamy Naik and as a necessary corollary, Government in exercise of the powers conferred under Section 7(2) of A.P. (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993 (Act 16 of 1993), hereby allow the appeal petition filed by the said Sri Minno Kethano Naik, P.C. in CRPF by upholding his Scheduled Tribe (Dhulia) community claim, duly setting aside the proceedings of the Revenue Divisional Officer, Tekkali, Srikakulam District issued vide Rc.No.2185/87, dated 18-7-1988.

8. The District Collector, Srikakulam is directed to take necessary consequential action in the matter.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

KANTILAL DANDE
SECRETARY TO GOVERNMENT

To
The District Collector, Srikakulam.

Sri Minno Kethano Naik, S/o. Late Sri Hadiya Naik,
BogaBanda(V), Mandhasa(M),
Srikakulam Dist., A.P.

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Cell No. 9440582211.

Copy to:
The PS to Hon'ble Deputy CM(TW).
The PS to Secretary(TW).

// FORWARDED:: BY ORDER //

SECTION OFFICER